

PATENT COOPERATION TREATY

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**WRITTEN OPINION BY THE
INTERNATIONAL
SEARCHING AUTHORITY
(Rule 43bis. 1 PCT)**

<p>File number of the applicant or attorney See Form PCT/ISA/220</p> <p>International file number PCT/DE2004/001737</p> <p>International patent classification (IPC) or national classification and IPC B60J7/12</p> <p>Application WILHELM KARMANN GMBH</p>		<p>FURTHER ACTIONS see Point 2, below</p> <p>Sending date (month/day/year) see Form PCT/SA/210 (Page 2)</p> <p>International application date (month/day/year) 8/4/04</p> <p>Priority date (month/day/year) 8/14/03</p>	
<p>1. This decision includes data on the following points:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Field no. I Basis of the opinion <input checked="" type="checkbox"/> Field no. II Priority <input checked="" type="checkbox"/> Field no. III Non-establishment opinion on novelty, inventive activity and commercial applicability <input checked="" type="checkbox"/> Field no. IV Lack of unity of the invention <input checked="" type="checkbox"/> Field no. V Substantiated determination according to Rule 43bis,1(a)(i) with respect to novelty, inventive activity and commercial usefulness; documents and explanations to support this determination <input type="checkbox"/> Field no. VI Specifically listed documents <input type="checkbox"/> Field no. VII Specifically listed defects of the international application <input type="checkbox"/> Field no. VIII Specific notes on the international application <p>2. FURTHER ACTIONS</p> <p>If a request is submitted for an international preliminary examination, this decision counts as the written decision of the authority ("IPEA") assigned to the international preliminary examination; this does not apply if the applicant selects an authority other than this as IPEA and the selected IPEA has reported to the international office according Rule 36, 1 to b) that written decisions of this international search authority are not recognized.</p> <p>If this decision applies as the written decision of the IPEA as provided above, the applicant is requested to submit a written opinion and, where appropriate, submit changes to the IPEA before expiration of 3 months from the date on which the form PCT/ISA/220 was sent or before expiration of 22 months from the priority date, depending on which deadline occurs later.</p> <p>For further options, see Form PCT/ISA/220.</p> <p>3. For details, see notes regarding Form PCT/ISA/220.</p>			
<p>Name and postal address of the international search authority</p> <p>European Patent Office D-80298 Munich Phone +49 89 2399 - 0 Telex: 523656 epmu d Fax: +49 89 2399 - 4485</p>	<p>Authorized Official</p> <p>BORRAS GONZALEZ [logo:] [illegible]</p> <p>Phone: +49 89 2399-7071</p>		

Form (PCT/ISA/237) (cover page) (January 2004)

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International Appl. number
PCT/DE2004/001737

Field no. 1 Basis of the decision

1. With respect to the language, the decision on the basis of the international patent application is issued in the language in which it was submitted unless otherwise indicated in this paragraph.
 - The decision is issued on the basis of a translation from the original language into the following language, in which the language of the translation involves the language that was submitted for the purpose of international search (according to Rules 12.3 and 23.1 b)).
2. With respect to the nucleotide and/or amino acid sequence that was disclosed in the international application and is necessary for the claimed invention, the decision has been issued on the following basis:
 - a. Type of material
 - Sequence protocol
 - Table(s) on the sequence protocol
 - b. Form of the material
 - In written form
 - In computer-readable form
 - c. Time of submission
 - Contained in the international application submitted
 - Submitted together with the international application in computer-readable form
 - Submitted subsequently to the authority for purposes of search
3. If more than one version or copy of a sequence protocol and/or of an associated table were submitted, the required explanation that the information in the subsequently submitted or additional copies matches the information in the application in the submitted addition and/or they do not go beyond it has additionally been provided.
4. Additional notes:

Form PCT/ISA/237 (January 2004)

**WRITTEN OPINION OF THE
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Field no. II Priority

1. The following document has not yet been submitted:

- Copy of the earlier application, for which priority has been claimed (Rule 43bis.1 and 66.7(a)).
 Translation of the earlier application, for which priority has been claimed (Rule 43bis.1 and 66.7(b)).

Therefore it was not possible to examine the validity of the priority claim. In spite of that, the decision was issued, under the assumption that the claimed priority date is the critical date.

2. This decision has been issued without consideration of the claimed priority, since the priority claim proved to be invalid (Rules 43bis.1 and 64.1). For the purposes of this decision, the international application date named above counts as the critical date.
3. It was not possible to examine the validity of the priority claim, since at the time the search was carried out, no copy of the priority document was available to the International Search Authority (rule 17.1). Therefore, this decision was issued under the assumption that the relevant date for the examination is the claimed priority date.
4. Any additional notes:

Field no. II I No issue of an expert opinion regarding novelty, inventive activity and commercial usefulness

The following parts of the application were not examined to see whether the claimed invention can be considered novel, based on inventive activity (not obviously) and commercially useful:

- the entire international application,
 Claims no. 6-17

Reasons:

- The entire international application and/or the claims named above relate to the following object, for which not international preliminary examination needs to be carried out (*precise indication*);
- The description, the claims or the drawings (*please give precise indications below*) of the above-named claims no. are so unclear that no reasonable expert opinion could be issued (*precise indication*);
- The claims and/or the above mentioned claims no. are so inadequately supported by the description, that no reasonable expert opinion could be issued.
- No international search report was issued for the entire application or for the above-named claims no. 6-17
- The nucleotide and/or amino acid sequence does not correspond to the standard specified in Attachment C to the administrative specifications.

the written form

- was not submitted.
 does not correspond to the standard.

the computer-readable form

- was not submitted.
 does not correspond to the standard.

- To the extent that they are available only in computer-readable form, the tables on the nucleotide and/or amino acid sequence protocol do not meet the technical requirements specified in Attachment C-bis of the administration specifications.
- See attachment for further information.

Form PCT/ISA/237 (January 2004)

Field no. IV Lack of uniformity of the invention

1. Upon request for payment of additional fees (Form PCT/ISA/206), the applicant:
 - paid additional fees.
 - paid additional fees under objection.
 - paid no additional fees.
2. The Authority has determined that the requirement for uniformity of the invention is not fulfilled and has decided not to request the applicant to pay additional fees.
3. The Authority is of the opinion that the requirement of uniformity of the invention according to Rules 13.1, 13.2 and 13.3
 - is fulfilled.
 - is not fulfilled for the following reasons:

see attachment
4. Therefore the following decision has been issued for the following parts of the international application:
 - all parts
 - all parts that relate to the claims with the following numbers: 1-5

Field no. V Substantiated determination according to Rule 43bis.I(a)(l) with respect to novelty, the inventive activity and the commercial usefulness; documents and explanations to support this determination

1. Determination

Novelty	Yes: Claims No: Claims 1-5
Inventive step	Yes: Claims No: Claims 1-5
Industrial Applicability	Yes: Claims 1-5 No: Claims:

2. Documents and explanations:

see Attachment

Reference is made to the following documents:

- D1: US-A-1 799 050 (WASYL KUTURLASH) March 31, 1931 (3/31/31)
- D2: GB 448 720 A (HERBERT AUSTIN) June 15, 1936 (6/15/36)
- D3: DE 199 56 482 C (EDSCHA CABRIO VERDECKSYS GMBH) March 29, 2001 (3/29/01)

Re Chapter V.2.

Invention lacking of unity

Claim 1

Convertible vehicle, whereby a longitudinal guiding aid is assigned to a transverse hoop for cooperation of a longitudinal guiding projection of another transverse hoop pointing in the different direction.

Claim 6

Convertible vehicle, whereby the force for moving the roof section can be introduced into it by way of a slidable lattice grate lying in the extension plane of the roof area with swivel axes lying perpendicular to the extension plane.

The expression in Claim 6 "especially according to one of Claims 1 to 5" does not cause any restriction of the protected scope of the patent claim, i.e. the expression that comes after this characteristic is to be considered completely optional. (PCT International Search and Preliminary Examination Guidelines, Part II, paragraph 5.40)

Because of this, Claim 6 is to be considered an independent claim.

As can be recognized "a priori," all common characteristics of the independent Claims 1 and 6 are given in the preamble of these claims.

The characteristics defined in the characterizing part of these claims, on the other hand, produce two independent inventions that each can solve a different problem.

For these reasons, the requirements of uniformity according to Rule 13 PCT is not fulfilled in the application.

V.2.1. Independent Claim 1

Document D1 shows:

Convertible vehicle with at least one flexible roof area supported by (frame members 21, 23) lying in succession over its longitudinal course, which for opening can be shortened by movement of frame members with a movement component in vehicle longitudinal direction whereby at least one (frame member 23) is assigned a longitudinal guiding aid (legs 22) for cooperation with a longitudinal guiding projection (terminals 20) of another (frame member 21) pointing in its direction.

Therefore, the present application does not meet the criterion named in Article 33 (2) PCT while the object of the claim is not novel under consideration of the state of the art described in the description (Rule 64.1 – 64.3 PCT).

V.2.2. Dependent Claims 2-5

The dependent Claims 2-5 that have other designs of the invention according to Claim 1 as their object also do not meet the requirements of the PCT; the characteristics of the claims listed after that also appear to be known from the documents named; therefore, they do not comprise any significant measures that could substantiate in any way novelty and/or inventive activity.

V.2.3. Comments of a general nature

Changes (preferably of the handwritten type) are to be submitted on complete **replacement pages** that can be included seamlessly into the existing pages and/or their page numbering (if necessary with supplemental pages); **in this context, reference is made to the fact that the**

Authority assigned to the international preliminary examination is not authorized to make changes in the documents that are submitted – not even at the request of the applicant.

The applicant's attention is drawn to the fact that the application must not be changed in such a way that its object extends beyond the content of the application in the edition in which it was originally submitted (Article 34 (2) b) PCT).

Document D1 is not indicated in the description, and the relevant state of the art contained in it is only outlined briefly; thus the requirements of Rule 5.1 a) II) PCT are not fulfilled.

Information that actually relates to the object of the invention (e.g. other details with respect to the advantages of the invention or the task to be solved), but that have no basis in the original documents, should be contained in the response document but not included in the application (Article 34 (2) b) PCT).

So that the further examination procedure can be accelerated, the applicant is asked to give a response as to which parts of the original application could serve as the basis for the modifications.